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EXAMINER	
HOSSAIN, FARZANA E	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/022,049	FICCO ET AL.	
	Examiner	Art Unit	
	Farzana E. Hossain	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-19 and 21-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-19 and 21-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *05-30-06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on 05/30/06. Claims 1, 6, 16, 21, 31, 32 are amended. Claims 2-4, 7-15, 16-19, 22-25, 27-30 are original. Claims 5, 20 are cancelled.

Response to Arguments

2. Applicant's arguments filed 05-30-2006 have been fully considered but they are not persuasive. Applicant argues that Tsukidate or Bhatt alone or in combination, do not describe or suggest temporally sorting data such that the data that is most likely to be immediately accessed is stored in physical memory, while the data that is most likely to be accessed in the distant storage is stored in a mass storage device (Pages 10-12). Applicant argues that Bhatt is directed to sorting a program guide based on user preference, not on temporal sorting based upon a current time.

The claim recites, "wherein the processor directs that the data to be temporally sorted based upon a current time." This limitation is very broad and is interpreted to be temporally sorted based up a current time or time period. Bhatt discloses receiving a daily download and proceeding at the current time with an algorithm which separates data to be immediately accessed and data to be accessed in the distant future (Page 3, paragraphs 0031, 0032). The Applicant's specification discloses near term data (i.e. data that is most likely to be used, "today's data", or "now data") and is argued by the

applicant in the remarks section. Bhatt can meet the claimed "current time," which is broader than "today's data or now data", and near term data can be data that is most likely to be used or meets preferred data. Therefore, the rejection is maintained.

Also note, Bhatt discloses data that is most likely to be used in the near future which meets the limitations temporally sorted. Although, the applicant argues that the limitation is towards a current time instead of preference data as disclosed by Bhatt, the claim recites sorting data as data is downloaded and sorting it based on immediately accessed data and less likely accessed data. Bhatt clearly discloses the limitations (Page 3, paragraph 0031-0032) based on preference data or *data that is most likely to be used* that is temporally sorted upon a current time or sorted based on time upon a current time period (Page 3, paragraph 0031-0032).

3. Applicant's arguments, see Page 9, filed 05-30-06, with respect to Claim 31 under 35 U.S.C. 101 have been fully considered and are persuasive. The rejection of Claim 31 under 35 U.S.C. 101 has been withdrawn.

4. Applicant's arguments, see Page 9, filed 05-30-06, with respect to Claims 1, 16, 31/16 under double patenting have been fully considered and are persuasive. The rejection of Claims 1, 16, 31/16 under double patenting has been withdrawn.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 32 is rejected under 35 U.S.C. 102(e) as being anticipated by Bhatt (US 2002/0073426).

Regarding Claim 32, Bhatt discloses a system and method for efficient storage of including electronic program guide (EPG) data for use by an application: a set top box or receiver (Figure 1, 100) including a physical memory or DRAM (Figure 1, 186), a mass storage device or hard drive (HD) (Figure 1, 174), and a processor or central processing control (CPU) (Figure 1, 188). Bhatt discloses a daily download of EPG information to be stored on the HD and that there is an algorithm that matches the preferred or displayable data needed in order to add the EPG data from the HD to the DRAM or the CPU controls the data processes including adding data from the mass storage device to the DRAM (Page 2, paragraph 0026, Page 3, paragraph 0031) and updating the data in the HD and DRAM every day or after the daily download and the data is updated in both HD and then matched with the algorithm for the DRAM for updating the DRAM so the data used by the application for EPG is rapidly accessed, (Pages 2-3, paragraphs 0021, 0029-0031) and that data is removed from HD to DRAM so that desired data has rapid access (Page 2, paragraph 0022) and data is removed from DRAM if it is data that does not need rapid access (Page 2, paragraph 0022),

which reads on that the data is removed from the HD and DRAM so as to ensure data used by application can be accessed from the physical memory without delay. Bhatt discloses that data is stored in the HD or mass storage device (Page 3, paragraph 0031), data is then temporally sorted (Page 2, paragraph 0029) based upon a current time or after the daily downloaded, the downloaded data is sorted (Page 3, paragraphs 0031-0032, Figure 4) between preferred (data most likely to be used) and not preferred data (less likely to be used), the preferred data is stored in the DRAM or physical memory and the not preferred is stored in the HD (Pages 2-3, paragraphs 0022, 0029-0031).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-4, 6-8, 10, 11, 16-19,21-23, 25, 26, 31/16-19,21-23,25,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukidate et al (US 6,507,950 and hereafter referred to as "Tsukidate") in view of Bhatt.

Regarding Claims 1, 16, 31/16, Tsukidate discloses a system and method for organizing data including electronic program guide (EPG) data for use by an application: a set top box or broadcasting receiving unit (Figure 10, 31, Figure 5, 31) including a physical memory or main/internal memory (Figure 10, 55), a mass storage

device or hard disk drive (HDD) (Figure 10, 51), a processor or data processing control unit/microprocessor (MPU) (Figure 10, 55); the MPU is connected to the main memory and the HDD (Figure 10, 55, 51) and the MPU can control the data processes for the storage and manipulate the EPG data so that a substantial portion or the program basic information can be prepared and stored in the internal memory of the MPU (Figure 10, 55, Column 12, lines 56-67, Column 13, lines 1-14) for instantaneous access from the internal memory (Column 13, lines 51-56). Tsukidate discloses that processor directs data with a high frequency utilization rate for instantaneous access or program basic information to be stored in the internal memory, the rest of the data or master data or data that is most likely to be accessed in the more distant future is stored in the HDD. Regarding Claim 31, the broadcasting receiving unit or computer readable medium has (Figure 10, 31) has a processor (Figure 10, 55) with programs for executing various data processing and other types of data based (Column 12, lines 23-26) and the broadcasting receiving unit receives and organizes the data (Figure 10, 31, Column 10, lines 10-40).

Tsukidate is silent on the data being temporally sorted into data that is most likely to be accessed. Bhatt discloses that data is stored in the HD or mass storage device (Page 3, paragraph 0031), data is then temporally sorted (Page 2, paragraph 0029) based upon a current time or after the daily downloaded, the downloaded data is sorted (Page 3, paragraphs 0031-0032, Figure 4) between preferred (data most likely to be used) and not preferred data (less likely to be used), the preferred data is stored in the DRAM or physical memory and the not preferred is stored in the HD (Pages 2-3,

paragraphs 0022, 0029-0031). Therefore, it would have been obvious to one of ordinary skill in the art to modify Tsukidate to include that the data is then temporally sorted (Page 2, paragraph 0029) based upon a current time between preferred and not preferred data, the preferred data is stored in the DRAM or physical memory and the not preferred is stored in the HD (Pages 2-3, paragraphs 0022, 0029-0031) as taught by Bhatt in order to reduce the amount of memory with rapid access so that costs are not high (Page 1, paragraph 0011) as disclosed by Bhatt.

Regarding Claims 2, 17, 31/17, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses that the MPU controls the process to add data from the HDD to the internal memory to maintain the amount data need for the EPG application (Column 12, lines 56-67, Column 13, lines 1-14).

Regarding Claims 3, 18, 31/18, Tsukidate and Bhatt disclose all the limitations of Claims 2, 17, 31/17. Bhatt discloses the CPU or processor in a set top box (Figure 1, 188) comprises an algorithm that matches the preferred or displayable data needed in order to add the EPG data from the HD to the DRAM or the CPU controls the data processes including adding data from the mass storage device to the DRAM (Page 2, paragraph 0026, Page 3, paragraph 0031). Bhatt discloses updating the data in the HD and DRAM every day or after the daily download and the data is updated in both HD and then matched with the algorithm for the DRAM for updating the DRAM so the data used by the application for EPG is rapidly accessed, (Pages 2-3, paragraphs 0021, 0029-0031) and that data is removed from HD to DRAM so that desired data has rapid access (Page 2, paragraph 0022) and data is removed from DRAM if it is data that does

not need rapid access (Page 2, paragraph 0022), which reads on that the data is removed from the HD and DRAM so as to ensure data used by application can be accessed from the physical memory without delay.

Regarding Claims 4, 19, 31/19, Tsukidate and Bhatt disclose all the limitations of Claims 3, 18, 31/18. Tsukidate discloses that the processes are run by the processor so that the EPG produces instantaneously for the display. Bhatt discloses that the processes are controlled by the operating system so the CPU can run algorithms the data is transferred to the DRAM so that preferred EPG data is produced without delay or so that these processes do not interfere with running the application of the EPG (Page 2, paragraph 0026, Page 3, paragraph 0031).

Regarding Claims 6, 21, 31/21, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses that the processor runs the application with the program basic information stored in the internal memory (Column 14, lines 23-35) and that the program basic information is only needed to run the application, the master data stored in the HDD is not needed, therefore, the program basic information that is stored in the internal memory is all that is needed to run the EPG (Column 13, lines 3-14).

Regarding Claims 7, 22, 31/22, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses the MPU controls the EPG data so that only the program basic information is accessed for high utilization frequencies (Column 13, lines 18-25). Bhatt discloses that storage of the data is based on up to 14 days in the

DRAM for the most preferred or common usage scenarios when displaying the EPG (Pages 2-3, paragraphs 0029-0031).

Regarding Claims 8, 23, 31/23, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses the MPU controls the EPG data so that only the program basic information is accessed for high utilization frequencies (Column 13, lines 18-25). Bhatt discloses that storage of the data is based on most preferred programming or common usage scenarios when determining what EPG information to display (Pages 2-3, paragraphs 0029-0031) and that the CPU can adjust and control matches for preferred data or most common usage if a match is found between upcoming programming and preferences (Page 3, paragraph 0032), or the CPU can manipulate data if there are other usage scenarios if the data is not stored in the cache resulting in a cache miss.

Regarding Claims 10, 25, 31/25, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses that there is a physical or internal/main memory (Figure 10, 55). Tsukidate is silent on the memory comprising a random access memory (RAM). Bhatt disclose the physical memory comprises a RAM or DRAM (Figure 1, 186).

Regarding Claims 11, 26, 31/26, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses that the mass storage device comprises a hard disk or HDD (Figure 10, 51).

9. Claims 9, 12-15, 24, 27-30, 31/24, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukidate in view of Bhatt as applied to Claims 1, 16, 31/16 further in view of Hofmann (US 5,883,677).

Regarding Claims 9, 24, 31/24, Tsukidate and Bhatt disclose all the limitations of Claims 1, 16, 31/16. Tsukidate discloses the data comprises program guide or EPG data for the application comprising a program guide or EPG. Tsukidate disclose a service transmission system transmitting master data (Figure 5, 21, 22, 8). Tsukidate is silent on the EPG for a plurality of sources. Hofmann discloses a system where EPG data is stored in one mass storage device or buffers (Figure 4B, 420) that receives program information from multiple sources or an EPG for a plurality of sources (Figure 4B, Column 3, lines 20-41) and that the integrated or preferred data to be displayed is transferred to a merged database (Figure 4B, 424). Therefore, it would have been obvious to one of ordinary skill in the art to modify Tsukidate in view of Bhatt to include that the EPG is for a plurality of sources (Figure 4B, Column 3, lines 20-41) as taught by Hofmann in order to make it more convenient to a user who has multiple services (Column 2, lines 16-22) and to be able receive, organize and display information for services from multiple sources (Column 1, lines 10-14) as disclosed by Hofmann.

Regarding Claims 12, 27, 31/27, Tsukidate, Bhatt and Hofmann disclose all the limitations of Claims 9, 24, 31/24. Tsukidate discloses a communications channel (Figure 5, 5). Hoffman discloses that there is communications channel configured to transmit the EPG data to the set top box (Figure 4B, 310, 318, 314).

Regarding Claims 13, 28, 31/28, Tsukidate, Bhatt and Hofmann disclose all the limitations of Claims 12, 27, 31/27. Tsukidate discloses a broadcasting wave signal (Column 9, lines 53-55). Hoffman discloses that the communications channel is satellite communications (Figure 4B, 318), a cable communications channel (Figure 4B, 310).

Regarding Claims 14, 29, 31/29, Tsukidate, Bhatt and Hofmann disclose all the limitations of Claims 9, 24, 31/24. Tsukidate discloses that the program guide is configured to display the EPG data on a display unit coupled the broadcast receiving unit (Figure 10, 23) in a weekly table in order of time, channels, and other attributes (Column 7, lines 8-15) including program title, descriptions and category (Column 7, lines 60-67, column 13, lines 18-23).

Regarding Claims 15, 30, 31/30, Tsukidate, Bhatt and Hofmann disclose all the limitations of Claims 14, 29, 31/29. Tsukidate discloses that program identifications or attributes include information about descriptions, performers or actors, the broadcasting channel (Column 7, lines 60-67, Figure 5).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH
July 7, 2006

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